

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	CASE NO. 8:06CR202
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
ANTHONY BIRDINE,	)	
	)	
Defendant.	)	

This matter is before the Court on the Defendant's motion to extend the time for filing a motion under 28 U.S.C. § 2255 (Filing No. 121).

The Defendant requests an additional 30 days to file a § 2255 motion. On April 18, 2008, the Eighth Circuit Court of Appeals denied his petition for rehearing en banc and petition for rehearing. (Filing No. 111.) The deadline for the filing of a petition for writ of certiorari was July 17, 2008. Under 28 U.S.C. § 2255, a defendant has one year to file a § 2255 motion from "the date on which the judgment of conviction becomes final." Therefore, the one-year period in this case began to run on July 17, 2008. *Campbell-Fabela v. United States*, 339 F.3d 993, 993-94 (8<sup>th</sup> Cir. 2003). The Defendant's deadline for filing his § 2255 motion is July 17, 2009. Because the Defendant has more than 3 months from the date of this order to prepare his motion, the motion to continue is denied.

IT IS ORDERED:

1. The Defendant's motion to extend the time for filing a motion under 28 U.S.C. § 2255 (Filing No. 121) is denied; and
2. The Clerk is directed to mail a copy of this order to the Defendant at his last known address.

DATED this 8<sup>th</sup> day of April, 2009.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge